Law and Our Rights

"All citizens are equal before law and are entitled to equal protection of law"Article 27 of the Constitution of the People's Republic of Bangladesh

A Possible Way out of Backlog in Our Judiciary

by Professor M Shah Alam

JUDICIARY of Bangladesh is caught in a vicious circle of delays and backlogs. Backlog of cases causes frustrating delay in the adjudicative process, which is eating away our judiciary. While delay in judicial process causes backlog, increasing backlog puts tremendous pressure on present cases and *vice versa*. This process goes on with no apparent remedy in view. Present rate of disposal of cases and backlog is alarming for justice, rule of law and economic development of the country.

Our judicial and legal system has a rich tradition of common law culture and it can boast of a long record of good delivery of justice. Like any other legal system, common law with its adversarial or accusatorial features, has both its merits and demerits. But in recent years, certain objective and subjective factors have led our judiciary to a situation where its demerits are ruling over the merits, manifesting in crippling backlogs and delays. Delayed justice fails to pay even the winning party of the litigation, for its costs in terms of time, money, energy and human emotions are too high.

Delay in our judiciary has reached a point where it has become a factor of injustice, a violator of human rights. Praying for justice, the parties become part of a long, protracted and torturing process, not knowing when it will end. Where it should take one to two years for the disposal of a civil suit, a case is dragged for 10 to 15 years, or even more. By the time judgement is pronounced the need for the judgement in certain cases is no more required. Moreover, in a society of class differentiation, the lengthy process, which is adversarial and confrontational in nature, puts the economically stronger party at an advantageous position. If the judiciary functions substantively and in accordance with the procedural laws, an existing wide scope for delays, can transform it into a system which becomes procedurally hostile towards marginalised sections of our people, defeating the goals of social justice.

The reasons for delays in our civil justice system are both systemic and subjective. They may be identified as follows:

1. Common law oriented adversarial or accusatorial character of the civil process as against inquisitorial as practiced in continental Europe, meaning that the litigation is party-controlled which provides wide maneuvering power to the lawyers, and presupposes lesser initiative and relative passivity of the judges.

2. Slow process of service of the summons which can be further slowed down by the intentions of the parties concerned, indicating a poor state of court administration.

3. Too much reliance on the resort to interim injunctive relief and orders, leaving the hearing of the main contentions and issues to 'infinity'.

4. Frequent adjournments of the trial caused by the insistence of the lawyers, and reluctance of the judges to limit these adjournments, such reluctance being explained partly by heavy case-load and partly by their unpreparedness to continue and complete the process.

5. Vested interest of the lawyers for lingering and delaying the process, for they are often paid by their appearances in the court.

6. Commonly made interlocutory orders and appeals which fracture the case into many parts and effectively stay the trial.

7. Scope for frequent amendments of the plaints and written statements at any stage of the trial.

8. Reluctance of the judges, accentuated by their statutory non-compulsion, to use pre-existing rules and orders to expedite the trial, or to sanction the parties for failing to follow the procedural requirements, meaning that the judges do not take initiative to employ procedural power already within their reach, nor do they make use of their rule making power to achieve procedural effectiveness.

9. Absence of lawyer-client accountability giving the lawyer monopoly to conduct the case the way he considers best suited to his own interest.

10. Little scope for client to client interaction which hinders potentiality for alternative dispute resolution and intensifies conflictual nature of the proceedings.

11. Failure of the parties to present the witnesses — sometimes genuine, sometimes deliberate.

12. Vagueness in the terms and wordings of the plaint and written statement, charging on the court time to clarify the issues, and the failure of the judges to impose costs for frivolous suits and pleadings.

13. Rotation and transfer of judges, often meaning that the same judge who heard testimony may not decide the dispute, taking away thereby much of his incentive to push forward the proceedings to judgement and seriously impeding the process of continuous trial; the new judge may have to repeat some of the procedural requirements already fulfilled.

14. Inadequate administrative and logistic support system, enormous work-load of the judges, poor salaries and poor working conditions — all having negative impact on the initiative and efficiency of the judges.

15. Insufficient internal discipline and accountability.

Above reasons and conditions exist in a long win or lose battle where the parties fight in a 'do or die' manner with no or little perspective of any consensual settlement move coming from any side which could steer the dispute to win-win resolution. Consequential frustration, desperation and costs become too expensive for any judicial system to sustain. Earlier, moves had been made to clear the procedural blockages of our civil justice system though success could not be achieved. Mere amendments of the CPC within the existing trial philosophy may not be the best way to look for the gateway in the blind-alley. Before it is too late, innovative approaches are needed to live upto the uphill tasks of reconstructing our judiciary.

Focussing on the experiences of some other countries including the USA and with an optimistic view that our age-old culture provides to settle any dispute through mediation, a carefully devised mechanism which involves proper court administration, effective case management and amicable consensual dispute resolution, can revolutionise our entire civil justice delivery system.

The essence of the concept is that after the filing of the plaint and submission of the written statement, attempts would be made to resolve the dispute through various forms of alternative dispute resolution (ADR) by early judicial intervention. In short, it is mandatory recourse to ADR or CDR (Consensual Dispute Resolution) by the trial judge's order in the pre-trial stage of a case. Court administration and case management are to prepare the ground for the success of ADR. It may be mentioned that in some of the states of the USA (for example California) 90 per cent of the cases are resolved at the pre-trial stage through ADR by early judicial intervention, and only the remaining 10 per cent go to the trial. In our country the picture is just the reverse.

Good court administration has been defined and described in many different ways. In simple terms it may be described to imply:

(a) good record-keeping and systematic filing of the cases;

(b) subject wise classification of the cases;

(c) good monitoring so as to classify the cases on the basis of the stages they have reached;

(d) to identify and to rid the docket of 'dead' or moot matters in order to prevent them from clogging the schedules;

(e) monitoring and case-flow tracking in such a way as to know the status of each case, to know its procedural position, to locate documents and records more easily and to reflect everything in transparency plate.

Good court administration is necessary for ready references and control over exodus of cases that are in the docket, and is to be ensured by judicial administrators to help the court instantly with any information it needs for effective case management. Efficient court staff equipped with modern technological facilities like computerisation would be necessary for good court administration.

Case management on the other hand, means detailed scheduling of the life and history of a case, after written statement has been submitted, drawn by an early judicial intervention i.e. sitting judge's order, enforcing active participation of the parties and strict observance of the schedule under court's supervision. In other words, it is procedural calendar of a particular civil suit (sort of an academic calendar in a university) where the parties have to follow procedural streamlining worked out by the court, and which also includes initiation and coordination of consensual processes aimed at the resolution of the case other than through a court trial.

Parties are required to submit separate case management statement within a stipulated time identifying and narrowing down the factual and legal issues of the case. Then they are asked to submit a joint case management statement, further concretising the issues. In case they fail to do so, a joint case management statement would be prepared with judge's active participation at a special hearing. After the main issues have been identified and agreed upon, the trial judge in consultation with the parties will send the case to one of the forms or mechanisms of the available ADR. Institutional arrangement for the availability of the system of ADR devices (conciliation, mediation, early neutral evaluation, arbitration or even judicial settlement by a non-trial judge) with proper training for the persons to provide ADR, is to be made by the judiciary in advance. While recourse to ADR would be mandatory, there would be nothing like binding decision of the ADR forum. But when the consensual decision by the parties is reached, court will issue necessary order for its execution. In case ADR efforts fail, the case shall go for trial.

Application of case management techniques by the trial judge envisages active participation and joint communication among the parties and their lawyers throughout the case. It requires each side to answer the requisitions, if any, made by opposing parties and additionally, imposes sanctions for non-compliance. It requires the opposing parties to identify the real controversies in the case and seek early responses from each side on question of fact and law. Thus, case management leads to a clear identification and narrowing of the legal and factual issues to be decided. To quote one authority, "The objectives of cases management are to establish judicial responsibility for the otherwise substantially party-controlled, adversarial preparations of civil cases for trial. Specifically, case management is designed to reduce dilatory, frivolous, inefficient, and protracted litigation practices and to replace party controlled litigation processes with judge-controlled, sequential steps in the life of a civil proceeding" [in a definite timeframe] ("Indian Civil Justice System Reform: Limitation and Preservation of the Adversarial Process", New York University Journal of International Law and Politics, Vol. 30, Nos. 1 & 2, 1997-98, p. 62).

Realisation by the parties that ADR is more cost-effective and time-effective is a pre-condition for its launching. Environment under which ADR takes place and specified legal and factual positions of the parties are vitally important for the success of any ADR effort. Case management techniques by ensuring contacts between the parties and identifying the real controversies seek to meet exactly these requirements — right environment and understanding of the issues. Needless to say that success of any ADR programme will require goodwill and cooperation of the litigants, lawyers and judge accompanied by necessary motivational work to be conducted amongst them.

It has been argued that mandatory recourse to ADR at the pre-trial stage by judicial intervention would not be a welcoming development for the lawyers, for their income could fall by any success of ADR programme. It's true that any success of ADR could lead to short-term fall in lawyers' income. But the long-term outcome would be completely different. Any success of the judiciary sponsored ADR would enhance the prestige and reliability of the judiciary drawing more litigants to it. Total number of cases of even much lower percentage of enhanced flow of cases going for trial would be quite formidable. Lawyers' fees for the cases going to trial naturally would be relatively high. Moreover, lawyers would be remunerated during ADR stage. In fact, an efficient judiciary with successful ADR programme and effective and timely adjudication is more likely to raise lawyers' income than to reduce it. This has been proved by American experience.

Under existing laws of Bangladesh it is not possible to cover all the aspects of court management and achieve it objectives, nor it is possible to introduce a full court-sponsored system of ADR. It shall require new enactments or amendments in the CPC. But at the beginning, it may not be advisable to go for radical enactments or amendments, rather it would be good to proceed with court management and ADR depending, wherever possible, on pre-existing laws and rules, at least to achieve limited objectives. This can be demonstrated by a pilot project, preferably by some family courts, using pre-existing rules, and also expanding their procedural authority by a special order of Supreme Court. Success of a pilot project may prepare the ground for necessary legislation for the agenda of full case management and mandatory ADR by judicial intervention.

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Children's Magna Carta Facing Daunting Challenges

The Saga of Compromise and Combination

by A. H. Monjurul Kabir writes from UK

THE world's first international legal instrument on children's rights was the product of a decade long intense negotiation among government delegations, inter-governmental organizations and non-governmental organizations. There were five important domains where consensus was difficult to achieve freedom of thought, conscience and religion; inter-country adoption, the rights of unborn child, traditional practices and on the duties of children. Conflicting cultural and religious dogmas had to consider while finalizing the text. As a result the Convention provides the right to preserve identity in Article 30 and a right to religious freedom in Article 14, which could be in conflict with Article 24(3). According to Article 24(3), states will 'take effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children' but this imperative has been compromised by adding through Article 24 (4) further that states undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of rights enunciated in Article 24.

Such compromise affects the proclaimed principles of best interests of the child. The Preamble of the Convention states that 'due account' is to be taken of 'the importance of the traditions and cultural values of each people for the protection and harmonious development of the child'. But these traditions and cultural values are not duly implemented. The dreadful practice of female genital mutilation having painful impacts on over 100 million women and in 28 countries in Africa is a glaring instance.

Ecological concern for the children is not a new phenomenon. Except for the reference in Article 24(2) (c) to the 'risks of environmental pollution', the Convention is silent on environmental questions, although children are the most vulnerable segment of any society to the degradation of environment both at the present time and in terms of the future.

The vulnerable position of the girl child in developing states seems to be wholly ignored. The provisions on education in Articles 28 and 29 keeps mum regarding the needs of girl children and it does not aid much to those who are working to promote the educational opportunities for girls in the developing countries. Whether the gender blind language of the Convention is consistent with and reinforces its provisions against sex discrimination or rather serves to obfuscate and maintain gender discrimination is a serious question. The Convention deals with child military service, which mostly affects boy children but not with child marriage which mostly affects girl children. It also does not deal with disproportionate share of childcare and the severe discrimination against girl child in parts of the world. The document does not provide any role for the gestational parent in determining when a fetus shall receive legal protection. Critics opine that it tends in fact to deal with white, male, relatively privileged children.

Another sordid instance of the Convention's deficiency is its failure to raise the legal age limit of children for participating in armed conflicts. In the later half of the twentieth century interstate wars are hugely outnumbered by internal conflicts, which have proved a breeding ground for child soldiers. Over the past 40 years the number of children deployed has increased and the children used have got younger. Currently, it is estimated, about 300,000 children are being used-as soldiers, porters and for sexual purposes-in over 30 conflicts around the world. Until 1977 there was a complete absence of any international standard setting minimum ages of recruitment in to armed forces. The existing age limit of 15 was first enshrined in the 1977 Additional Protocol to the Geneva Conventions and later on sadly reaffirmed 12 years later by Art 38 of the CRC despite the fact that Art 1 defines children as all persons under 18. Recently open-ended working group of the Commission on Human Rights entrusted with the elaboration of a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts has completed its mandate the text of the draft optional protocol prohibiting the use and compulsory recruitment of persons under 18 in armed conflict. The Optional Protocol still needs to be adopted by both the UN Commission on Human Rights and the General Assembly.

Integration into National System

Although the CRC obliges States parties to undertake all appropriate legislative measures for the implementation of the rights recognized in the CRC, it does not expressly oblige States parties to accord the CRC any specific status in their national law. And international law, in general, does not prescribe States to accord international law, including (international human rights) treaties, any specific status in their national legal order. In comparative law, three approaches can be distinguished as regards the relation between national law and international law: the "dualistic" approach, the "intermediate" approach, and the "monistic" approach. States that follow the dualistic approach make a clear distinction between domestic law and international law. International treaty obligations have effect in the domestic legal system only after they have been transposed into national law. In such a system the domestic legal effect of the various rights laid down in the CRC derive from domestic legal provisions only. In States that follow the intermediate approach the CRC as a whole has to be transformed into a national law, but as soon as this has happened the CRC's provisions are part of the domestic legal order. In States that follow the monistic approach, international law and domestic law are considered as one legal system and such transformation of the CRC is not necessary. The CRC as a whole is incorporated into domestic law. In States that follow either the intermediate or the monistic approach, individual children derive rights directly from the CRC. In national procedures he or she may therefore directly invoke provisions of the CRC, which must be applied by the national courts and to which they usually must give priority in the event of conflict with national legislation. In States parties in which the CRC has such internal effect it is the national judge who decides whether a case can be resolved directly on the basis of a provision of the CRC. The problem of integration and implementation becomes more difficult with regard to economic, social and cultural rights.

The Dilemma of State Obligation

The Convention bridges both 'human development' and 'human rights concern' providing for children's economic, social and cultural rights as well as their civil rights. The substantive articles are meant to cover all kinds of human rights economic, social, cultural, as well as civil and political rights. The division between these categories of rights, which often has plagued the United Nations discussion on human rights, is not reflected in this convention. It is an integrated approach. In view of the holistic approach, it is not always obvious which of the substantive articles should be seen as belonging to the category of economic, social and cultural rights.

There are, however, a number of differences, which are still held to distinguish civil and political rights from economic, social and cultural rights especially in line with the two Covenants. The International Covenant on Civil and Political Rights (ICCPR) urges States Parties to 'respect and ensure its rights' while the International Covenant on Economic, Social and Cultural Rights (ICESCR) pleads that States Parties should 'take steps, individually and through international assistance and co-operation...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights.'(Article 2(1). Civil and political rights are very often branded as negative rights as states are only under a duty to refrain immediately from actions which would be in violation, where as economic, social and cultural rights oblige states to promote directly and afford basic amenities, goods and services.

Article 4 of the CRC maintains this division following the trends of other UN instruments. It provides for a general obligation of States parties, which applies with respect to all of the rights set forth in the CRC. Its function is closely related to the role played by Article 2(1), which contains the basic obligation of States parties to respect and ensure the rights set forth in the CRC to each child within their jurisdiction. Article 4 states the means by which States parties are required to satisfy this basic obligation, and provides that States parties are required to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the CRC. As regards the economic, social and cultural rights recognized in the CRC, it specifically provides that States parties assume the obligation to take such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation. This clause of the CRC in fact attempts to appease the concerns of states' representatives that government would be held responsible for their failure in achieving targeted standards of children's well being, that are, according to them, 'unrealistic' in terms of resource availability and specific time limits, specially in lower income countries.

The issue of the 'obligations of the states' is treated as a potential obstacle because of the vagueness of the concept both in international law and in development theory and practice. The tendency to limit recognition of those obligations to the formal agencies of the state, especially at the national level also aggravates the problem

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Santals: The Oppressed Indigenous

by Sohana Khandoker

AT this juncture of modernisation, we tend to forget that from the food on our table to the drugs that save our lives, are contribution of the forlorn Indigenous people.

They even have a great influence on our culture and our language.

Indigenous people first cultivated many of the world's staple foods such as potatoes, peas, sugarcane, garlic and tomatoes. An estimated 75 per cent of the world's plant based pharmaceuticals, including aspirin and quinine have been derived from medicinal plants found in tribal areas. Indeed, the contribution of indigenous people to modern civilization is pervasive.

Bangladesh is quite rich in ethnic culture. There are about thirty-five ethnic communities living in different parts of the country. The major ethnic communities are *Chakma, Murma, Garo, Santal, Hajong, Tipra, Khasi, Murang, Shendhu, Panko* etc. They struggle to maintain their life style, culture and protect distinct religious beliefs from the influence of the dominant culture and religions. In the North and Northwestern belt of Bangladesh a number of ethnic communities live who still have to struggle hard to sustain their original culture and traditional heritage. The *adivasis* in this region comprises of several groups *Santal, Oraon, Munda, Mahali, Mahato, Malpahara* etc.

Among the ethnic people in the north and northwestern belt of Bangladesh *Santals* are largest in number. But there is no accurate and reliable statistics regarding their actual population. There is also a great difference between the official and unofficial figures and estimates.

According to the government census of 1991, the *adivasi* population was estimated 3,14,337 in 16 administrative district of the Rajshahi division. But as claimed by an indigenous community leader, Badla Oraon of Dinajpur *Adivasi* Academy, the number of indigenous people in Rajshai division was 3,222,000 way back in 1984. A survey report reveals that the total population of *Santal* is 143932 in Dinajpur, Rajshahi, Bogra, Pabna and some other areas of Bangladesh. According to the other sources, the total number of *Santals* are much higher than estimated. Most of the scholars also questioned the authenticity of the numerical data. In their opinion, the census takes language as the basis for identifying any person as Bengali or indigenous. They have also alleged that the existing policy is to show the number lower than the actual number.

This article is initiated to project light on the vulnerability, insecurity and existing struggle of *Santals* in Bangladesh.

The state that promises to be the protector of its people often acts dictatorial. Providing safety and security to the people is the precondition of democracy. Unfortunately, we see a different picture here. In certain cases the ethnic minorities have to leave their own country to save their lives. On the other hand, successive regimes in Bangladesh introduced such arbitrary changes in Constitution, which pushed these hapless group towards further marginalisation.

Santals is a cause for concern for two reasons. Firstly, because of the numbers of affected are still very high, secondly and most importantly the chain of exploitation is impeding the social and economic development of the country.

Anthropologists and Sociologists think that the ethnic people or the *adivasis* of the east central India came to ancient Bengal in search of work, land and food. These ethnic communities included *Santal, Oraon, Munda, Mahali* etc. According to certain section of Academicians, *'Santal* are probably the first settlers of Barind tract.' The *zaminders* or feudal landowners have initially brought them here, from different areas of central India including Bihar, for clearing up forests.

During the British rule, the natural habitat of each of these tribes was given the status of a scheduled area so that each tribe could preserve its separate identity without being assimilated into the community.

During the last three decades, the former policy of segregation has been replaced. Ownership of land has been introduced in these areas. On the other hand, the ecological degradation of Barind tract has caused further sufferings to the people of this area. The Padma river was the main source of fishing among the *Santals*. This is now seriously threatened due to lack of water in the river. Most of the *Santals* have adopted wage laboring and share cropping. Most of them are living their livelihood on agriculture.

Constitution and Rights

In part two, article 23, it is stated that:

"The state shall adopt measures to converse the cultural traditions and heritage of the people, and so to foster and improve the national language, literature and the arts that all sections of the people are afforded the opportunity to contribute towards and to participate in the enrichment of the national culture."

Further Article 28(1) of the constitution states that:

"The state shall not discriminate against any citizens on grounds of only religion, race, caste, sex, or place of birth."

But the Eighth amendment to the constitution abandoned the secular principle by making Islam the state religion.

Thus, we see the constitution recognizes the presence of ethnic communities and they are provided with the right to follow their culture and rituals freely.

Unfortunately, reality is far different then the provisions articulated in the constitution. Violations of human rights are a common practice.

It is also significant to note that Bangladesh did not observe 1994 as the year of the indigenous people as declared by United Nations.

Land Disputes

A recent research in North Bengal shows that the land belonging to the 30 percent total sample population had been appropriated, 15.5 percent of the sample *adivasis* were engaged in land disputes.

Markhan Majhi, 50, lives in abject poverty, in a remote village called *Gurail* in *Tanore* thana under Rajshahi district. But once he was an affluent farmer. He had four acres of land. The crops produced from his agricultural land were sufficient for Markhan's family.

In 1985, Markhan was informed that, his Bengali neighbor, Mohammad Ali Mollah has grabbed one and half acre of his land including his house through a false deed. He went to the court but that did not bring any fruitful solution to the matter. 'My family has been subjected to violence for going to the court. Now we are evacuees, losing the land which had been rightfully ours for generations.'

Suklal Saren once had 4 bighas of lands in *Neyamatpur* thana of *Naogaon* district under greater Rajshahi. In December 1996, few musclemen evicted his 10 families claiming the lands as *Khas* lands (land which belongs to the government) and these settlers had made a dwelling house little away from Suklal's home although the family has legal papers and has been using the land, since 1970. No action has been taken against the offenders. Rather, these musclemen have started residing in the illegally occupied land.

Radhaballav Barman of *Nachole thana* under *Chapainawabganj* district received 2 acres of *khas* land in 1972. A Bengali, Abdul Mannan made a forged deed. A case was filed against Abdul Mannan but he successfully managed to get away from the allegation. When the case was filed again, Abdul Mannan succeeded to get away in the same manner.

These are not stories only of Markhan, Sukhlal and Radhaballav but the very common stories of most of the ethnic minorities of Rajshahi. If we go through the locally published *Santal* journal name *ULGULAN* (revolution) we see that land encroachment, rape, murder are regular incidents in *Santal* majority areas. The *adivasis* also complain about the police brutality.

A recent study shows that lands are in possession of few powerful hands. Ethnic minorities are the one who have been the victim of illegal land encroachment. The *Santal* hardly has any knowledge about the legal provisions and documents relating to the landed property, therefore, they easily fall under the prey of the local elite, the cunning cheaters who often take their signature on blank paper and forge their document.

Discrimination in Labour Market

It has been observed that discrimination in the labor market is prevalent. Bengali laborers have a fixed time to work whereas *adivasi* laborer works 2-4 hours more than the Bengalis. Though the type and the load of the work is same. They are paid fewer wages for their labor compared with the non-*adivasi* laborers.

Silent Discrimination in Education and Employment

Literacy rate among the *Santals* is very low. A recent study conducted by Hossain and Sadeq in *Deopara* village under Deopara Union reveals that literacy rate among the *Santals* was 3-4 percent.

It has repeatedly urged in the writing of tribal intellectuals to introduce their mother tongue at the primary levels. The tribal children face language problems in the primary schools. The text books are in *Bangla* where as their mother tongue is not *Bangla*. A study conducted by Madaripur Legal Aid association discloses that the textbooks of IX and X don't even mention about the ethnic communities, their histories and cultural lives. The majority of Bangladeshi students graduating after ten years from school do not even learn the diverse culture existing in Bangladesh.

The Madaripur Legal Aid Association, in its report for the Sasakawa project, in September 1996 stated that only 2-3 people from the ethnic minority are taken in to Bangladesh civil service every year, although there is legal reservations for 5% jobs for ethnic minorities. The report explains that there may be a lack of qualified persons caused by high drop out rates in students from ethnic minorities. But a silent discriminatory policy remains in effect and as a result many members of the ethnic community seek jobs in NGOs and missionary schools. The report points out discrimination in the selection procedures in the armed forces and in Dhaka University.

This article is not exhaustive but it was aimed to focus on few issues, which effect the ethnic minorities of our country to grow, to develop, and to restrain them to be a citizen of Bangladesh. The exploitation is deep rooted in the society. The chain of exploitation begins by a Bengali villager and ends by the State. The questions often arise, "Are they treated as Bangladeshis?" "Are they enjoying their rights?" It is apparent that the essence of democracy and the concept of development remain an illusion for the *Santal* of Bangladesh.